

AMENDED IN SENATE APRIL 9, 2007

SENATE BILL

No. 904

Introduced by Senator Battin

February 23, 2007

~~An act to add Section 722 to the Military and Veterans Code, relating to veterans. An act to amend Section 27203 of, and to add Section 6107.5 to, the Government Code, and to amend Section 103526 of the Health and Safety Code, relating to public records.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 904, as amended, Battin. ~~Veterans: personal information. Public records: military service.~~

Existing law authorizes the State Registrar, local registrar, or county recorder to issue a certified copy of a military service record pursuant to the receipt of a written or faxed request for a certified copy of a military service record, as specified, that is accompanied by a notarized statement sworn under penalty of perjury, that the requester is an authorized person entitled to receive a certified copy of a military service record. In all other circumstances, the State Registrar, local registrar, or county recorder is authorized to issue an informational certified copy of a military service record, as provided. Existing law defines the term "authorized person," for purposes of that provision, to include the registrant or a parent or legal guardian of the registrant, a party entitled to receive the record as a result of a court order, a member of a law enforcement agency or a representative of another governmental agency, a family member of the registrant, as specified, an attorney representing the registrant or the registrant's estate, and any agent or employee of a funeral establishment, as specified.

This bill would, instead, only authorize a county recorder to issue a certified copy or an informational certified copy of a military service record. This bill would define an authorized person entitled to receive a certified copy of a military service record to only include the person who is the subject of the record, a family member or legal representative of the person who is the subject of the record, a county office that provides veterans' benefits services, and a United States official. By authorizing new persons to request a certified copy of a military service record, this bill would expand the crime of perjury and thereby impose a state-mandated local program.

Existing law provides that any county recorder who alters, changes, obliterates, or inserts any new matter in any records deposited in his or her office, will be liable to the party aggrieved, as provided.

This bill would require the county recorder, when furnishing an informational certified copy of a military service record, to alter that record by obliterating the service member's personal information, as specified, without incurring any liability. By changing the manner in which the county recorder issues informational certified copies of military service records, this bill would impose a state-mandated local program. This bill would also make conforming changes to other provisions of law relating to public records.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~Existing law provides certain protection and benefits for veterans, as provided.~~

~~This bill would require the county recorder, upon the request of a veteran, to redact specified information from public documents, as provided. This bill would authorize the county recorder to charge a reasonable fee for the cost of redacting this information. By imposing a new duty on the county recorder, this bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6107.5 is added to the Government Code,
2 to read:
3 6107.5. (a) If the county recorder receives a written or faxed
4 request for a certified copy of a military service record, pursuant
5 to Section 6107, that is accompanied by a notarized statement
6 sworn under penalty of perjury, or a faxed copy of a notarized
7 statement sworn under penalty of perjury, that the requester is an
8 authorized person, the county recorder may furnish a certified
9 copy to the applicant in accordance with Section 6107. A faxed
10 request received pursuant to this section for a certified copy of a
11 military service record shall be legible and, if the notary's seal is
12 not photographically reproducible, show the name of the notary,
13 the county of the notary's principal place of business, the notary's
14 telephone number, the notary's registration number, and the
15 notary's commission expiration date typed or printed in a manner
16 that is photographically reproducible below, or immediately
17 adjacent to, the notary's signature in the acknowledgment.
18 (b) In all other circumstances, the certified copy of a military
19 service record provided to the requestor shall be an informational
20 certified copy and shall display a legend that states
21 "INFORMATIONAL, NOT A VALID DOCUMENT TO
22 ESTABLISH IDENTITY." Notwithstanding Section 27203 or any
23 other law, the county recorder shall alter the informational
24 certified copy to obliterate the service member's address, date of
25 birth, social security number, and service identification number,
26 without incurring any liability.
27 (c) For purposes of this section, an "authorized person" is any
28 of the following:

1 (1) *The person who is the subject of the record.*

2 (2) *A family member or legal representative of the person who*
3 *is the subject of the record.*

4 (3) *A county office that provides veterans' benefits services.*

5 (4) *A United States official.*

6 SEC. 2. *Section 27203 of the Government Code is amended to*
7 *read:*

8 27203. Any recorder to whom an instrument proved or
9 acknowledged according to law or any paper or notice which may
10 by law be recorded is delivered for record is liable to the party
11 aggrieved for the amount of the damages occasioned thereby, if
12 he or she commits any of the following acts:

13 (a) (1) Neglects or refuses to record the instrument, paper, or
14 notice within a reasonable time after receiving it. This subdivision
15 shall not apply to an instrument, paper, or notice that the recorder
16 has determined to be an unrecordable document pursuant to this
17 chapter. Nothing in this subdivision shall preclude the application
18 of Section 27201.

19 (2) The recorder may provide, to any person presenting a
20 document the recorder determines to be an unrecordable document,
21 a form stating that the person has the right to judicial review in a
22 court of competent jurisdiction of the recorder's refusal to record
23 the document. The form shall include a section stating the
24 recorder's reason for refusing the document. The form shall provide
25 notice that it is a public offense to further attempt to record the
26 document without an order of the court as provided by Section
27 27204. The recorder shall keep a correct copy of the refused
28 document. In the event the document is determined by the court
29 to be a recordable document, the recorder shall pay the filing fees
30 for the review, and shall record the document within a reasonable
31 time.

32 (b) Records any instrument, paper, or notice, willfully or
33 negligently, untruly, or in any manner other than that prescribed
34 by this chapter.

35 (c) Neglects or refuses to keep in his *or her* office or to make
36 the proper entries in the indices required by this chapter.

37 (d) ~~Alters~~ *Except as provided by Section 6107.5, alters, changes,*
38 *obliterates or inserts any new matter in any records deposited in*
39 *his or her office. The recorder may make marginal notations on*
40 *the records in his or her office indicating the affixing of internal*

1 revenue stamps to documents subsequent to recordation or the
2 affixing of ~~such~~ *the* stamps to original deeds on file in the office
3 of the registrar of titles.

4 *SEC. 3. Section 103526 of the Health and Safety Code is*
5 *amended to read:*

6 103526. (a) If the State Registrar, local registrar, or county
7 recorder receives a written or faxed request for a certified copy of
8 a birth or death record pursuant to Section 103525, ~~or a military~~
9 ~~service record pursuant to Section 6107 of the Government Code,~~
10 that is accompanied by a notarized statement sworn under penalty
11 of perjury, or a faxed copy of a notarized statement sworn under
12 penalty of perjury, that the requester is an authorized person, as
13 defined in this section, that official may furnish a certified copy
14 to the applicant in accordance with Section 103525 ~~and in~~
15 ~~accordance with Section 6107 of the Government Code. If a written~~
16 ~~request for a certified copy of a military service record is submitted~~
17 ~~to a county recorder by fax, the county recorder may furnish a~~
18 ~~certified copy of the military record to the applicant in accordance~~
19 ~~with Section 103525.~~ A faxed notary acknowledgment
20 accompanying a faxed request received pursuant to this subdivision
21 for a certified copy of a birth or death record ~~or a military service~~
22 ~~record~~ shall be legible and, if the notary's seal is not
23 photographically reproducible, show the name of the notary, the
24 county of the notary's principal place of business, the notary's
25 telephone number, the notary's registration number, and the
26 notary's commission expiration date typed or printed in a manner
27 that is photographically reproducible below, or immediately
28 adjacent to, the notary's signature in the acknowledgment. If a
29 request for a certified copy of a birth or death record is made in
30 person, the official shall take a statement sworn under penalty of
31 perjury that the requester is signing his or her own legal name and
32 is an authorized person, and that official may then furnish a
33 certified copy to the applicant.

34 (b) In all other circumstances, the certified copy *of a birth or*
35 *death record* provided to the ~~applicant~~ *requestor* shall be an
36 informational certified copy and shall display a legend that states
37 "INFORMATIONAL, NOT A VALID DOCUMENT TO
38 ESTABLISH IDENTITY." The legend shall be placed on the
39 certificate in a manner that will not conceal information.

1 (c) For purposes of this section, an “authorized person” is any
2 of the following:

3 (1) The registrant or a parent or legal guardian of the registrant.

4 (2) A party entitled to receive the record as a result of a court
5 order, or an attorney or a licensed adoption agency seeking the
6 birth record in order to comply with the requirements of Section
7 3140 or 7603 of the Family Code.

8 (3) A member of a law enforcement agency or a representative
9 of another governmental agency, as provided by law, who is
10 conducting official business.

11 (4) A child, grandparent, grandchild, sibling, spouse, or domestic
12 partner of the registrant.

13 (5) An attorney representing the registrant or the registrant’s
14 estate, or any person or agency empowered by statute or appointed
15 by a court to act on behalf of the registrant or the registrant’s estate.

16 (6) Any agent or employee of a funeral establishment who acts
17 within the course and scope of his or her employment and who
18 orders certified copies of a death certificate on behalf of any
19 individual specified in paragraphs (1) to (5), inclusive, of
20 subdivision (a) of Section 7100.

21 (d) Any person who asks the agent or employee of a funeral
22 establishment to request a death certificate on his or her behalf
23 warrants the truthfulness of his or her relationship to the decedent,
24 and is personally liable for all damages occasioned by, or resulting
25 from, a breach of that warranty.

26 (e) Notwithstanding any other provision of law:

27 (1) Any member of a law enforcement agency or a representative
28 of a state or local government agency, as provided by law, who
29 orders a copy of a record to which subdivision (a) applies in
30 conducting official business may not be required to provide the
31 notarized statement required by subdivision (a).

32 (2) An agent or employee of a funeral establishment who acts
33 within the course and scope of his or her employment and who
34 orders death certificates on behalf of individuals specified in
35 paragraphs (1) to (5), inclusive, of subdivision (a) of Section 7100
36 shall not be required to provide the notarized statement required
37 by subdivision (a).

38 (f) Informational certified copies of birth and death certificates
39 issued pursuant to subdivision (b) shall only be printed from the
40 single statewide database prepared by the State Registrar and shall

1 be electronically redacted to remove any signatures for purposes
2 of compliance with this section. Local registrars and county
3 recorders shall not issue informational certified copies of birth and
4 death certificates from any source other than the statewide database
5 prepared by the State Registrar. This subdivision shall become
6 operative on July 1, 2007, but only after the statewide database
7 becomes operational and the full calendar year of the birth and
8 death indices and images is entered into the statewide database
9 and is available for the respective year of the birth or death
10 certificate for which an informational copy is requested. The State
11 Registrar shall provide written notification to local registrars and
12 county recorders as soon as a year becomes available for issuance
13 from the statewide database.

14 *SEC. 2. No reimbursement is required by this act pursuant to*
15 *Section 6 of Article XIII B of the California Constitution for certain*
16 *costs that may be incurred by a local agency or school district*
17 *because, in that regard, this act creates a new crime or infraction,*
18 *eliminates a crime or infraction, or changes the penalty for a crime*
19 *or infraction, within the meaning of Section 17556 of the*
20 *Government Code, or changes the definition of a crime within the*
21 *meaning of Section 6 of Article XIII B of the California*
22 *Constitution.*

23 *However, if the Commission on State Mandates determines that*
24 *this act contains other costs mandated by the state, reimbursement*
25 *to local agencies and school districts for those costs shall be made*
26 *pursuant to Part 7 (commencing with Section 17500) of Division*
27 *4 of Title 2 of the Government Code.*

28 **SECTION 1.** Section 722 is added to the Military and Veterans
29 Code, to read:

30 ~~722. (a) The county recorder shall, upon the request of a~~
31 ~~veteran, redact the address, date of birth, and social security~~
32 ~~number, from any of the following documents filed by a veteran:~~

33 ~~(1) DD Form 214;~~

34 ~~(2) Certificate or statement of service.~~

35 ~~(b) The county recorder may charge a reasonable fee for the~~
36 ~~cost of implementing this section.~~

37 ~~SEC. 2. If the Commission on State Mandates determines that~~
38 ~~this act contains costs mandated by the state, reimbursement to~~
39 ~~local agencies and school districts for those costs shall be made~~

- 1 pursuant to Part 7 (commencing with Section 17500) of Division
- 2 4 of Title 2 of the Government Code.

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